

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **Sen. John Cobb**, on January 8, 2003 at 3:00 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. John Cobb, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Kelly Gebhardt (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Pat Murdo, Legislative Branch
Mona Spaulding, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 38, 12/6/2002; SB 1,
12/5/2001; SB 7, 12/5/2002; SB
136, 12/30/2002
Executive Action: SB 38; SB 136; SB 7

HEARING ON SB 38 {Tape: 1; Side: A}

Sponsor: SENATOR DALE MAHLUM, SD 35

Proponents: Linda Vaughey, Commissioner of Political Practices (COPP); Dulcy Hubbert, COPP

Opponents: SEN. EDWARD B. BUTCHER, SD 47

Opening Statement by Sponsor: SEN. MAHLUM introduced SB 38. It allows the Commissioner of Political Practices to provide forms, manuals, and election laws electronically, while still providing paper copies upon request. SEN. MAHLUM asked the Commissioner, Linda Vaughey, to comment.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony: Commissioner Vaughey said SB 38 is requested by the agency in response to public demand and budget cuts.

Questions from Committee Members and Responses: None.

Closing by Sponsor: SEN. MAHLUM said SB 38 is about saving money for the State.

EXECUTIVE ACTION ON SB 38

Motion/Vote: SEN. SPRAGUE MOVED SB 38 DO PASS. The motion CARRIED UNANIMOUSLY.

HEARING ON SB 1

Sponsor: SENATOR BEA MCCARTHY, SD 29

Proponents: Don Allen, Allen & Assoc.; B. Christiaens; Former SENATOR CHRIS CHRISTIAENS; Former SENATOR MACK COLE, Treasure County; Eric Feaver, Montana Education Association-Montana Federation of Teachers (MEA-MFT); John Ostlund, Yellowstone County; Joseph S. Ruby; John Younger, Montana Farm Bureau

Opponents: SEN. ED BUTCHER, SD 47

Informational Testimony: Mark Mackin, Helena

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Opening Statement by Sponsor: SEN. MCCARTHY introduced SB 1, an amendment to the constitution to be submitted to the voters to repeal term limits. The impetus for the bill came when the Supreme Court refused a hearing last February, saying the delay had been too long.

Proponents' Testimony: Former SEN. CHRIS CHRISTIAENS, representing himself, said he was one of two legislators who

brought the suit in front of the Supreme Court. It was understood that the suit could not be filed until they were themselves affected; for that reason they did not proceed until affected. They were informed later that the suit was not brought in a timely manner. **SEN. CHRISTIAENS** felt term limits not to be in the best interest of the state or those people sitting in the current Legislature. He noted that the state of Oregon overturned term limits. The case in the Montana Supreme Court was almost exactly the same. Idaho has overturned term limits. It was acted on by both the House and the Senate, and vetoed by their Governor; then the Legislature overruled the Governor's veto. **Sen Christiaens** believes the issue needs to go back before the voters.

John Younger, representing the **Montana Farm Bureau**. Years ago, members of the Montana Farm Bureau were among the most strident of those wanting term limits. There has been a change of heart. Membership has done a 180 degree turn-around on this. He said one reason was, the difficulty to get candidates.

Joseph Ruby, representing himself. **Mr. Ruby** said that term limits were intended as a means to break boundedness on the federal level. He defined boundedness as a function of how hard it is for a new person to become a member of the Legislature when running against an incumbent. Name recognition, the ability to raise funds, and to command press coverage all play a part. The reasoning was that forcibly retiring incumbents would help a newcomer competing with an incumbent. However, **Mr. Ruby** cited statistics refuting this assumption. He said he did not find an advantage to having term limits. **EXHIBIT(sts03a01)**

Former **SEN. MACK COLE**, representing **Treasure County**, said the concept of term limits for elected officials was popular in the 1990s. It was passed in more than 20 states, primarily in the west. Although the major emphasis was on limiting the terms of national officials, some states limited the number of years on elected officials, down to the county. Others limited only selected officials--which was the case in Montana. Soon after CI 64 passed in Montana, the U.S. Supreme Court ruled that limiting the terms of national elected officials was unconstitutional. Now several states have realized how crippling term limits are to their state governments, and have repealed their limit laws, realizing that term limits can be set through the election process. CI 64 addressed the terms of both national and state elected officials. Montana's constitution explicitly allows only one subject issue on the ballot. In the case of CI 75, for instance, the Montana Supreme Court said it was in violation of the constitution because it addressed more than one issue. In the case of CI 64, there were ten different issues on one ballot. When the state court looked at CI 64, however, it deviated from the constitution when it refused to address the merits of the law. If term limits were once again put to Montana citizens, **Sen. Cole** believes it would be overturned. **EXHIBIT(sts03a02)**

Eric Feaver, representing **MEA-MFT**, asked that the issue of term limits be left for the voters to decide.

Opponents' Testimony: **SEN. ED BUTCHER, SD 47**, was chairman of the group who put term limits on the ballot in 1992. He said when sixty percent of the people, nationally, are united on an issue it is important to give it recognition. He noted examples where people supported term limits, even when it was a side issue, and he questioned why the Legislature was spending time on a self-serving issue where the people have so resoundingly made a statement.

Informational Testimony: **Mark Mackin**, representing himself, said there was an opportunity to start a dialogue with voters. Putting term limits back on the ballot without engaging the public would leave voters wondering if the cure was worse than the disease, or if there was no disease in the first place. Public opinion is still strong. **EXHIBIT(sts03a03)**

Questions from Committee Members and Responses: **SEN. SPRAGUE** said he has not been asked to retire term limits. He asked former **SEN. MACK COLE**, why the bill was presented when there was no ground-swell. **SEN. COLE** said he, and numerous other people, have been told that people should be termed out of office in November at the ballot box.

SEN. SPRAGUE said it was ironic that two of the individuals at the legislative table held their seats due to the effect of term limits. **{Tape: 1; Side: B}** He asked former **SEN. CHRISTIAENS** to respond. **SEN. CHRISTIAENS** said nothing was intended to reflect on individuals currently in office. At issue is lost institutional knowledge, which is irreplaceable.

Closing by Sponsor: **SEN. MCCARTHY** thanked the committee. She said she respects the different perspectives of legislators, but her constituents were upset about term limits. Personally, she said her right to run for any office she chooses was at issue. SB 1 asks only for the opportunity to have voters reconsider term limits that was passed ten years ago. Much has changed--the economy, the budget, the Governor, the auditor, the secretary of state, public instruction, new members on the public service commission--all because of term limits. We also have two-thirds of the Legislature changed because of term limits, when ordinarily one-third of the Legislature would turn over. She brings this bill at the request of constituents and asks that an opportunity for another vote be given the public.

CHAIRMAN COBB said **EXECUTIVE ACTION WILL BE TAKEN** on this bill in committee **FRIDAY, JANUARY 10**.

HEARING ON SB 7

Sponsor: SENATOR EDWARD B. BUTCHER, SD 47

Proponents: Mary Allen, Granite, Powell, Deer Lodge Counties & Anaconda; W. Harold Blattie, Montana Association of Counties (MACO); Ronda Carpenter, Montana County Treasurer's Assoc.; Sen. Mack Cole, Treasure County; former Rep. Jerry Driscoll; Russ Huotari, Richland County; Mona Jamison, Gallatin County; Doug Kaerehar, Hill County; Bill Kennedy, Yellowstone County & MACO; Emile Kimmet, Clerk of Court EXHIBIT(sts03a04); Elaine M. Mann, Broadwater County Commission; Jani McCall, City of Billings; Mike Murray, Lewis & Clark County; Mary Phippen, Veteran's Assoc., Clerks of District Court; Jim Reno, Yellowstone County; Mark Ridlow, Richland County; LeRoy Schramm, for Board of Regents; Robert R. Throssell, Montana Magistrate's Association, Montana Clerk & Records Association; Ed Tinsley, Lewis & Clark County; Com. Linda Vaughey, COPP; Anita Verone, Lewis & Clark County; Rep. Sandy Weiss, HD 13, Billings

Opponents: Mike Fellows, Missoula, MT EXHIBIT(sts03a05)

Opening Statement by Sponsor: SEN. BUTCHER, SD 47, introduced SB 7 saying it was a simple bill taking away \$150 penalty lobbying fee to individuals who are elected officials. SEN. BUTCHER brought an amendment EXHIBIT(sts03a06) allowing the Board of Regents of Higher Education and presidents of colleges to lobby without paying the fee. SEN. BUTCHER submitted comments and rationale for the amendment was submitted. EXHIBIT(sts03a07) He expressed concern that the amendment might open the floodgate, creating a deluge of bureaucrats pushing self interests.

Proponents' Testimony: Jim Reno, Yellowstone County Commissioner, said the recent interpretation that low-paid elected officials must register as a lobbyist and pay \$150 fee is an error in judgment.

REP. SANDY WEISS, HD 13, representing the city of Billings, said officials elected by the people to represent them should not have to pay a fee to do so. REP. WEISS drew a comparison between elected officials and legislators.

Mike Murray, Lewis & Clark County Commissioner, said one of the questions frequently asked of him was whether elected officials of Lewis & Clark County registered to lobby. He said the Commissioner of Practices has waived the lobby fee pending the outcome of this bill. He said part of the campaign promise made to voters was to lobby the state on behalf of Lewis & Clark County.

Former **SEN. MACK COLE, Treasure County Commissioner**, wishes to go on record in support of SB 7.

Mona Jamison, Gallatin County, stands in support of the bill. The law is very clear that county commissioners, for example, must register and pay the fee--not as a matter of interpretation, but as law. As a matter of public policy, it isn't equitable and doesn't make sense. As to the amendment, **Ms. Jamison** asked that the Committee think about the underlying public policy of the fee, the act, and its disclosure. Do the people have a right to know who's there, whether they paid, who they represent and how much time they're spending? She is not ready to speak for or against the amendment at this time.

Anita Verone, Lewis & Clark County Commissioner, asks support for SB 7 in its entirety, but particularly with regard to elected officials. It cleans up the language. **Ms. Verone** thinks the word "local" was intended, though not included in the original language. Should SB 7 not pass, it could create hardship.

Elaine Mann, Broadwater County Commissioner, favors SB 7. Ms. Mann said she has been asked to come to the Legislature on numerous occasions by her constituents. Broadwater County, which has lost tax base for the past three years, cannot pay the fee. She has to pay the fee herself.

LeRoy Schramm, at the request of the **Board of Regents**, spoke strictly on the amendment. The way the bill reads now, the definition of "appointed state official" is restricted to someone appointed by the Governor or Chief Justice, and subject to confirmation by the Senate. Presidents, chancellors, and CEOs of Montana campuses have been exempt from registering in the past, but they would not be under SB 7 as written. The amendment does not open the floodgates; it narrowly includes only nine individuals: the commissioner, three presidents, three chancellors, the heads of two colleges of technology. It maintains the status quo for these nine people as a matter of equal treatment. **SEN. SPRAGUE** asked **SEN. GEBHARDT** clarifying questions.

Mary Allen, representing **Granite, Powell, Deer Lodge Counties and the city of Anaconda**, stands to support SB 7.

Former **REP. JERRY DRISCOLL**, said he was chairman of the subcommittee that presented this legislation in 1983. The intention was that all elected officials would be exempt--nobody else. **{Tape: 2; Side: A}** The people want to know how much money is being spent to lobby the Legislature.

Ed Tinsley, Lewis & Clark County Commissioner, is on record in support of SB 7.

Harold Blattie, Asst. Director MACO, was asked by the **Director of Montana Association of Counties** to speak in support of SB 7. He said there is a distinction between elected and appointed officials. If you are an elected official, you are on

duty 24 hours a day, seven days a week. You can not testify as a private citizen. He strongly urges support for SB 7, allowing elected officials to represent their constituents without paying the fee. Mr. Blattie submitted letters in support of SB 7 from the **Phillips County Board of County Commissioners**

EXHIBIT(sts03a08), **Connie Eissinger, McCone County Commissioner**
EXHIBIT(sts03a09), **Teton County Commissioners** **EXHIBIT**(sts03a10),
John E. Prinkki, Chairman, Carbon County Commissioners
EXHIBIT(sts03a11), **Lake County Commissioners** **EXHIBIT**(sts03a12),
and **Gary Macdonald, Chairman, Roosevelt County Commissioners**
EXHIBIT(sts03a13).

Bill Kennedy, Yellowstone County Commissioner, and 1st Vice Chair, Montana Association of Counties stands in support of SB 7.

Mary Phippen, Montana Association Clerks of District Court, supports SB 7 based on previous testimony of proponents.

Ronda Carpenter, Montana County Treasurer's Association, asked do pass for SB 7.

Opponents' Testimony: None.

Questions from Committee Members and Responses: **CHAIRMAN COBB**

asked questions of **Commissioner Linda Vaughey**. On the bill, itself, page 4, regarding time line, **Com. Vaughey** said 10 days was an unrealistic expectation. Twenty days is her recommendation. Page 4, lines 10-23, **CHAIRMAN COBB** asked for clarification. **Com. Vaughey** said the change brings equity to those who are lobbying from out of town vs. those who live near. **Com. Vaughey** said it was her interpretation that the university system presidents and chancellors are not exempted, and are required to register and pay the lobbying fee.

SEN. SQUIRES asked what the financial impact was, and if it was significant to the Commissioner's office. **Com. Vaughey** said the passage of the bill would have no fiscal impact, because the individuals involved have not been registered. It has been an oversight. She said the statutes were examined line-by-line when her office was developing recommendations; everyone was truly surprised to understand that locally elected officials were not exempt under the statute. She has not collected the fee, pending the outcome of this legislation. It was not waived, but only postponed until March 1. If the fees had been collected, then had to be refunded, it would have been expensive for the state.

SEN. WHEAT asked if the amendments to the statute really just kept the status quo in the Commissioner's's office, since they had not been charged until now. **Com. Vaughey** said it wasn't a matter of charging, but of receiving the fees. It is the responsibility of the lobbyist to follow the law and the rules governing lobbying. The Commissioner's office has no way to know

who is at the Legislature testifying unless there is a request to register.

SEN. SPRAGUE said, what is being asked, referring to the amendment, is if you are currently, or have ever, collected from the people affected by this amendment? **Com. Vaughey** said occasionally local elected officials have been licensed to lobby. **Sen Sprague** said, referring only to the amendment of SB 7, the university system, have you been collecting a fee. **Com. Vaughey** said to her knowledge, no. The process followed in her office did not allow for discovery until there was a trigger point. She has looked at the Montana Supreme Court decision. County and local elected officials were included in the exclusion at that time. She does not know the history between the time of the court decision and when the task force incorporated the law. The perception of local government officials is that they are excluded from registration and paying the fee.

Closing by Sponsor: **SEN. BUTCHER** said SB 7 provided an opportunity to refine the lobbying fee schedule. He said it was important that elected officials' access to the Legislature not be restricted. It is important to have elected officials testify.

CHAIRMAN COBB said the decision to take executive action on SB 7 would follow the hearing on SB 136.

HEARING ON SB 136

Sponsor: **SENATOR EDWARD B. BUTCHER, SD 47**

Proponents: **W. Harold Blattie**, MACO; **Ronda Carpenter**, Montana County Treasurer's Association; **Alec Hansen**, League of Cities and Towns; **Dulcy Hubbert**, COPP; **Russ Huotari**, **Mona Jamison**, Gallatin County; **Richland County**; **Elaine M. Mann**, Broadwater County Commissioner; **Jani McCall**, city of Billings; **Mike Murray**, Lewis & Clark County; **Mary Phippen**, Montana Association Clerks of District Court; **Mark Ridlow**, Richland County; **Ed Tinsley**, Lewis & Clark County; **Robert R. Throssell**, Montana Magistrates Association, Montana Clerk & Records Association; **Anita Varone**, Lewis & Clark County; **Linda Vaughey**, COPP

Opponents: None.

Opening Statement by Sponsor: **Sen. Butcher** introduced SB 136. It is self-explanatory. It clarifies that public employees or officials may engage in activities on behalf of organizations or associations of local government officials.

Proponents' Testimony: **Robert Throssell**, representing the Montana Magistrates and Montana Clerk & Records Associations, said it was important to hear from the people who administer and carry out the laws the Legislature passes.

Harold Blattie, representing MACO, said the essence of the bill is to make clear that, for example, Mack Cole could serve as an officer of the Montana Association of Counties while he is an elected Commissioner. Without this clarification, the argument could be made that MACOs officers could not represent the association.

Mike Murray, representing Lewis & Clark County, stands to support SB 136.

Anita Varone, representing Lewis & Clark County, stands in support of SB 136.

Mary Phippen, representing the Montana Association of Clerks of District Courts, stands in support of SB 136.

Elaine Mann, representing Broadwater County Commissioners, stands in favor of SB 136.

Ronda Carpenter, representing the Montana County Treasurer's Association, stands in support of SB 136.

Mona Jamison, representing Gallatin County, stands in support of SB 136. Also, that Alec Hansen, League of Cities and Towns, asks to go on record in support of SB 136.

Jani McCall, representing the city of Billings, said the city and the city council are in support of SB 136.

Opponents' Testimony: None.

Questions from Committee Members and Responses: **SEN. SPRAGUE** said he found the title of the bill confusingly broad. He asked if the law now says that an elected official cannot belong to any association organizations. **SEN. BUTCHER** said, if you read the sentences on page 2, line 13 and 20 without this amendment, you get a sense that restrictions on elected officials belonging to their own professional organizations could be interpreted.

Closing by Sponsor: **SEN. BUTCHER** closed with his comments to **SEN. SPRAGUE'S** question.

EXECUTIVE ACTION ON SB 136

Motion/Vote: **SEN. SPRAGUE** moved that **SB 136 DO PASS**. Motion carried unanimously.

EXECUTIVE ACTION ON SB 7

Motion: SEN. SPRAGUE moved that SB 7 DO PASS.

Motion: SEN. SPRAGUE moved AMENDMENT to SB 7 for DISCUSSION.

CHAIRMAN COBB asked for discussion on the bill: SEN. GEBHARDT questioned page 4, lines 18-23.

SEN. WHEAT said it was appropriate to allow the amendment; it would maintain the status quo and not open a flood gate.

SEN. SPRAGUE said to keep in mind that this was not the last chance for the amendment.

SEN. SQUIRES said she would not oppose the amendment, but still expressed concern about "abuse" charges coming up.

{Tape: 2; Side: B}

SEN. SPRAGUE withdrew his motion for discussion on the amendment to SB 7.

Motion/Vote: SEN. WHEAT moved that THE AMENDMENT TO SB 7 DO PASS Motion failed 2-3 with Sens. Cobb, Gebhardt, and Sprague voting no.

Motion/Vote: SEN. SPRAGUE moved that SB 7 DO PASS. Motion carried unanimously.

Announcements: CHAIRMAN COBB announced Senate State Administration Committee will next meet on Friday, 1/10/03, at 3:00 p.m., room 335 to hear SB 8, SB 54, SJ 3 and to take Executive Action on SB 1. SB 9 has been rescheduled for 1/17/03.

ADJOURNMENT

Adjournment: 4:25 P.M.

SEN. JOHN COBB, Chairman

MONA SPAULDING, Secretary

JC/MS

EXHIBIT (sts03aad)